

Thomas Jefferson to George Hamond, November 14, 1793, with Draft, from The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

TO THE BRITISH MINISTER J. MSS. (GEORGE HAMMOND)

Germantown, November 14th, 1793.

Sir, —I have to acknowledge the receipt of your letter of the 7th instant, on the subject of the British ship *Roehampton*, taken and sent into Baltimore by the French privateer the *Industry*, an armed schooner of St. Domingo, which is suggested to have augmented her force at Baltimore before the capture. On this circumstance a demand is grounded that the prize she has made shall be restored.

Before I proceed to the matters of fact in this case, I will take the liberty of calling your attention to the rules which are to govern it. These are, I. That restitution of prizes has been made by the Executive of the United States only in the two cases, 1, of capture within their jurisdiction, by armed vessels, originally constituted such without the limits of the United States; or 2d, of capture, either within or without their jurisdiction, by armed vessels, originally constituted such within the limits of the United States, which last have been called proscribed vessels.

II. That all *military equipments* within the ports of the United States are forbidden to the vessels of the belligerent powers, even where they have been constituted vessels of war before their arrival in our ports; and where such equipments have been made before detection, they are ordered to be suppressed when detected, and the vessel reduced to

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her original condition. But if they escape detection altogether, depart and make prizes, the Executive has not undertaken to restore the prizes.

With due care, it can scarcely happen that military equipments of any magnitude shall escape discovery. Those which are small may sometimes, perhaps, escape, but to pursue these so far as to decide that the smallest circumstance of military equipment to a vessel in our ports shall invalidate her prizes through all time, would be a measure of incalculable consequences. And since our interference

must be governed by some general rule, and between great and small equipments no practicable line of distinction can be drawn, it will be attended with less evil on the whole to rely on the efficacy of the means of prevention, that they will reach with certainty equipments of any magnitude, and the great mass of those of smaller importance also; and if some should in the event, escape all our vigilance, to consider these as of the number of cases which will at times baffle the restraints of the wisest and best-guarded rules which human foresight can devise. And I think we may safely rely that since the regulations which got into a course of execution about the middle of August last, it is scarcely possible that equipments of any importance should escape discovery.

These principles shewing that no demand of restitution holds on the ground of a mere military alteration or an augmentation of force, I will consider your letter only as a complaint that the orders of the President prohibiting these, have not had their effect in the case of the *Industry*, and enquire whether if this be so, it has happened either from neglect or connivance in those charged with the execution of these orders. For this we must resort to facts which shall be taken from the evidence furnished by yourself and the British vice-consul at Baltimore, and from that which shall accompany this letter.

About the beginning of August the *Industry* is said to have arrived at Baltimore with the French fleet from St. Domingo; the particular state of her armament on her arrival is lately questioned, but it is not questioned that she was an armed vessel of some degree. The

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Executive having received an intimation that two vessels were equipping themselves at Baltimore for a cruise, a letter was on the 6th of Augt addressed by the Secretary of War to the Governor of Maryland, desiring an inquiry into the fact. In his absence the Executive Council of Maryland charged one of their own body, the honorable Mr. Killy, with the inquiry. He proceeded to Baltimore, and after two days' examination found no vessel answering the description of that which was the object of his inquiry. He then engaged the British vice-consul in the

search, who was not able, any more than himself, to discover any such vessels. Captain Killy, however, observing a schooner, which appeared to have been making some equipments for a cruise, to have added to her guns, and made some alteration in her waist, thought these circumstances merited examination, though the rules of August had not yet appeared. Finding that his inquiries excited suspicion, and fearing the vessel might be withdrawn, he had her seized, and proceeded in investigation. He found that she was the schooner *Industry*, Captain Carver, from St. Domingo: that she had been an armed vessel for three years before her coming here, and as late as April last had mounted 16 guns; that she now mounted only 12, and he could not learn that she had procured any of these, or done anything else, essential to her as a privateer, at Baltimore. He therefore discharged her, and on the 23d of August the Executive Council made the report to the Secretary of war, of which I enclose you a copy.

About a fortnight after this (Sep. 6) you added to a letter on other business a short paragraph, saying that you had "lately received information that a vessel named the *Industry* had, within the last 5 or 6 weeks, been armed, manned and equipped in the port of Baltimore." The proceedings before mentioned having been in another department, were not then known to me. I therefore could only communicate this paragraph to the proper department. The separation of the Executive within a few weeks after, prevented any explanations on this subject, and without them it was not in my power to either controvert or admit the information you had received. Under these circumstances I think

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you must be sensible, Sir, that your conclusion from my silence, that I regarded the fact as proved, was not a very necessary one.

New inquiries at that time could not have prevented the departure of the privateer, or the capture of the *Roehampton*; for the privateer had then been out some time. The *Roehampton* was already taken, and was arriving at Baltimore, which she did about the day of the date of your letter. After her arrival, new witnesses had come forward to prove that the *Industry* had made some military equipments at Balti-

more before her cruise. The affidavits taken by the British vice-consul, are dated about 9 or 10 days after the date of your letter and arrival of the *Roehampton*, and we have only to lament that those witnesses had not given their information to the vice-consul when Mr. Killy engaged his aid in the enquiries he was making, and when it would have had the effect of our detaining the privateer till she should have reduced herself to the condition in which she was when she arrived in our ports, if she had really added anything to her then force. But supposing the testimony just and full (tho taken *ex parte*, and not under the legal sanction of an oath,) yet the Governor's refusal to restore the prize was perfectly proper, for, as has been before observed, restitution has never been made by the Executive, nor can be made on a mere clandestine alteration or augmentation of military equipments, which was all that the new testimony tended to prove.

Notwithstanding, however, that the President thought the information obtained on the former occasion had cleared this privateer from any well-grounded cause of arrest, yet that which you have now offered opens the possibility that the former was defective. He has therefore desired new inquiry to be made before a magistrate legally authorized to administer an oath, and indifferent to both parties; and should the result be that the vessel did really make any military equipments in our ports, instructions will be given to reduce her to her original condition, whenever she shall again come into our ports.

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On the whole, Sir, I hope you will perceive that on the first intimation thro their own channel, and without waiting for information on your part, that a vessel was making military equipments at Baltimore, the Executive took the best measures for inquiring into the fact, in order to prevent or suppress such equipments; that an officer of high respectability was charged with the inquiry, and that he made it with great diligence himself, and engaged similar inquiries on the part of your vice-consul; that neither of them could find that the privateer had made such equipments, or, of course, that there was any ground for reducing or detaining her; that at the

date of your letter of Sep. 6, (the first intimation received from you,) the privateer was departed, had taken her prize, and that prize was arriving in port; that the new evidence taken 10 days after that arrival can produce no other effect than the institution of a new inquiry, and a reduction of the force of the privateer, should she appear to have made any military alterations or augmentation, on her return into our ports, and that in no part of this proceeding is there the smallest ground for imputing either negligence or connivance to any of the officers who have acted in it.